

AMENDED IN ASSEMBLY JUNE 17, 2003

AMENDED IN ASSEMBLY JUNE 4, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 732

Introduced by Senator Soto

~~(Coauthor: Assembly Member Benoit)~~

(Coauthors: Assembly Members Benoit and Koretz)

February 21, 2003

An act to amend Sections 597b, 597c, 597i, and 597j of the Penal Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, as amended, Soto. Cockfighting.

Existing law makes it a misdemeanor to aid, abet, or be present at a cockfight; to own, possess, keep, or train any cock with intent that it be used for fighting; or to manufacture, buy, sell, or possess cockfighting implements.

This bill would instead provide that these offenses are punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed \$1,000, or by both that imprisonment and fine. This bill would also specify that upon a 2nd or subsequent conviction of specified animal fighting provisions the person shall be confined in a county jail for not less than 6 months and shall be subject to a fine not to exceed \$25,000, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence. The bill would also provide that aiding and abetting a cockfight shall consist of something more than merely being present or a spectator at a place where that fighting is occurring. ~~The bill would make legislative~~

~~findings and declarations and a statement of legislative intent with respect to the need for this measure.~~ Because this bill would change the definition of various crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. (a) The Legislature finds and declares the~~
2 ~~following:~~

3 ~~(1) Cockfighting has been identified as a probable source of~~
4 ~~Exotic Newcastle Disease (END) which has devastated the~~
5 ~~California poultry industry.~~

6 ~~(2) END is a fatal disease that may infect poultry through direct~~
7 ~~contact with other infected birds, fecal material, or aerosol over a~~
8 ~~short distance, or indirectly through contact with contaminated~~
9 ~~people, vehicles, equipment, insects, or rodents.~~

10 ~~(3) END was diagnosed in backyard poultry flocks in southern~~
11 ~~California on October 1, 2002, and in commercial poultry on~~
12 ~~December 21, 2002. The disease has been found in parts of the~~
13 ~~Counties of Kern, Los Angeles, Orange, Riverside, San~~
14 ~~Bernardino, San Diego, and Ventura.~~

15 ~~(4) According to an information bulletin dated March 24, 2003,~~
16 ~~from the Law Enforcement Branch of the Governor's Office of~~
17 ~~Emergency Services, "In October 2002, END was discovered in~~
18 ~~small flocks of backyard chickens (primarily gamecocks~~
19 ~~prohibited under 597b PC) in Southern California."~~

20 ~~(5) Game fowl are predominantly used for "cockfighting;"~~
21 ~~game bird owners and producers bring their birds together from all~~
22 ~~parts of southern California for these events.~~

23 ~~(6) Cockfighting events expose birds to the END virus; at these~~
24 ~~events some diseased birds are bought, sold, and then returned to~~

1 ~~a home facility, resulting in an extremely rapid spread of the~~
2 ~~disease.~~

3 ~~(b) It is the intent of the Legislature in enacting this act to~~
4 ~~toughen the laws prohibiting cockfighting in order to reduce the~~
5 ~~spread of END and thereby better protect the public health and~~
6 ~~California agriculture.~~

7 ~~SEC. 2.~~

8 *SECTION 1.* Section 597b of the Penal Code is amended to
9 read:

10 597b. (a) Except as provided in subdivision (b), any person
11 who, for amusement or gain, causes any bull, bear, or other animal,
12 not including any dog, to fight with like kind of animal or creature,
13 or causes any animal, including any dog, to fight with a different
14 kind of animal or creature, or with any human being; or who, for
15 amusement or gain, worries or injures any bull, bear, dog or other
16 animal, or causes any bull, bear, or other animal, not including any
17 dog, to worry or injure each other; and any person who permits the
18 same to be done on any premises under his or her charge or control;
19 and any person who aids, abets, or is present at the fighting or
20 worrying of an animal or creature, as a spectator, is guilty of a
21 misdemeanor.

22 (b) (1) Notwithstanding subdivision (a), any person who, for
23 amusement or gain, causes any cock to fight with another cock or
24 with a different kind of animal or creature or with any human
25 being; or who, for amusement or gain, worries or injures any cock,
26 or causes any cock to worry or injure another animal; and any
27 person who permits the same to be done on any premises under his
28 or her charge or control, and any person who aids or abets the
29 fighting or worrying of any cock is guilty of a misdemeanor
30 punishable by imprisonment in a county jail for a period not to
31 exceed one year, by a fine not to exceed one thousand dollars
32 (\$1,000), or by both that imprisonment and fine.

33 (2) Upon a second or subsequent conviction of Section 597b,
34 597c, or 597j, the person shall be confined in a county jail for not
35 less than six months and shall be subject to a fine not to exceed
36 twenty-five thousand dollars (\$25,000), except in unusual
37 circumstances where the interests of justice would be better served
38 by the imposition of a lesser sentence.

39 (c) For the purposes of this section, aiding and abetting a
40 violation of this section shall consist of something more than

1 merely being present or a spectator at a place where a violation is
2 occurring.

3 ~~SEC. 3.~~

4 *SEC. 2.* Section 597c of the Penal Code is amended to read:

5 597c. (a) Except as provided in subdivision (b), whoever
6 owns, possesses, keeps, or trains any animal, with the intent that
7 the animal shall be engaged in an exhibition of fighting, or is
8 present at any place, building, or tenement, where preparations are
9 being made for an exhibition of the fighting of animals, with the
10 intent to be present at that exhibition, or is present at that
11 exhibition, is guilty of a misdemeanor.

12 (b) (1) Notwithstanding subdivision (a), whoever owns,
13 possesses, keeps, or trains any cock or other bird, with the intent
14 that the cock or other bird shall be engaged in an exhibition of
15 fighting is guilty of a crime punishable by imprisonment in a
16 county jail for a period not to exceed one year, by a fine not to
17 exceed one thousand dollars (\$1,000), or by both that
18 imprisonment and fine.

19 (2) Upon a second or subsequent conviction of Section 597b,
20 597c, or 597j, the person shall be confined in a county jail for not
21 less than six months and shall be subject to a fine not to exceed
22 twenty-five thousand dollars (\$25,000), except in unusual
23 circumstances where the interests of justice would be better served
24 by the imposition of a lesser sentence.

25 (c) This section shall not apply to an exhibition of fighting of
26 a dog with another dog.

27 ~~SEC. 4.~~

28 *SEC. 3.* Section 597i of the Penal Code is amended to read:

29 597i. (a) It shall be unlawful for anyone to manufacture, buy,
30 sell, barter, exchange, or have in his or her possession any of the
31 implements commonly known as gaffs or slashers, or any other
32 sharp implement designed to be attached in place of the natural
33 spur of a gamecock or other fighting bird.

34 (b) Any person who violates any of the provisions of this
35 section is guilty of a crime punishable by imprisonment in a county
36 jail for a period not to exceed one year, by a fine not to exceed one
37 thousand dollars (\$1,000), or by both that imprisonment and fine
38 and upon conviction thereof shall, in addition to any judgment or
39 sentence imposed by the court, forfeit possession or ownership of
40 those implements.

~~SEC. 5.~~

SEC. 4. Section 597j of the Penal Code is amended to read:

597j. (a) Any person who owns, possesses, keeps, or trains any bird or animal with the intent that it be used or engaged by himself or herself, by his or her vendee, or by any other person in an exhibition of fighting is guilty of a crime punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(b) This section shall not apply to an exhibition of fighting of a dog with another dog.

(c) Upon a second or subsequent conviction of Section 597b, 597c, or 597j, the person shall be confined in a county jail for not less than six months and shall be subject to a fine not to exceed twenty-five thousand dollars (\$25,000), except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence.

~~SEC. 6.~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.